

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. Nos.77203 & 77204 of 2007

and

Criminal Misc. No.25018-M of 2007

.....

Date of decision:9.8.2007

Harpal Singh and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Present: Mr. G.S. Kaura, Advocate for the petitioners.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab
for the respondent-State.

Mr. Vikram K. Chaudhri, Advocate for respondent No.2 with
respondent No.2 in person.

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S.S. Saron, J. (Oral)

Cr. M. No.77203/2007:

Notice of the criminal miscellaneous to Advocate General,
Punjab and respondent No.2.

On the asking of the Court, Mr. I.P.S. Sidhu, learned Senior
Deputy Advocate General, Punjab accepts notice on behalf of the
respondent-State. Mr. Vikram K. Chaudhri, Advocate accepts notice on
behalf of respondent No.2. It is agreed between the learned counsel for the
petitioner and for respondent No.2 (complainant) that the matter has been
compromised and, therefore, a petition may be preponed and disposed of.
Learned State counsel has no objection to this. Consequently the hearing of
this case is preponed for today.

The criminal miscellaneous stands disposed of.

Cr. M. No.77204/2007:

Copy of the order dated 31.5.2007 (Annexure-A/1) passed by the learned Additional District Judge-I, Muktsar in the joint petition filed by petitioner No.1 and respondent No.2 for grant of divorce by mutual consent is taken on record.

The criminal miscellaneous stands disposed of.

Cr. M. No.25018-M/2007:

This petition under Section 482 Cr.P.C. has been filed for quashing case FIR No.38 dated 16.2.2005 (Annexure-P.1) registered at Police Station City Malout, District Muktsar for the offences under Sections 405, 406, 498-A, 420, 506 and 120-B IPC and all consequential proceedings arising therefrom including the final report (Annexure-P.2) filed under Section 173 Cr.P.C. submitted against petitioners No.2 and 3 and the charge-sheet dated 10.1.2006 (Annexure-P.4) framed by the trial Court as also the order dated 2.7.2005 (Annexure-P.3) passed by the learned Sub Divisional Judicial Magistrate, Malout. The quashing of the petition is sought on the ground that a compromise has been reached at with respect to the matrimonial dispute between the parties.

The marriage between Harpal Singh (petitioner No.1) and Smt. Satinder Kaur (respondent No.2) was solemnized on 11.2.2004. However, matrimonial differences and disputes arose between the parties. As a consequence of dispute, the impugned FIR No.38 dated 16.2.2005 (Annexure-P.1) was registered against the petitioners for the offences under Sections 405, 406, 498-A, 420, 506 and 120-B IPC. At the time of

filing the report (challan) in terms of Section 173 Cr.P.C., the charge-report was filed only against Tara Singh (petitioner No.2) and Harpreet Kaur (petitioner No.3). After presentation of the charge-report (challan) dated 10.1.2006 (Annexure-P.4), charges have been framed against the said petitioners No.2 and 3. Now with the intervention of the respectable, friends and relatives a compromise has been effected between the petitioners and respondent No.2. It has been inter alia agreed that a sum of Rs.5 Lacs shall be paid to Smt. Satinder Kaur (respondent No.2) towards her permanent alimony and settlement of all her claims. The petitioners have since deposited the said amount of Rs.5 Lacs with Master Mohinder Singh son of Sohan Singh who was one of the mediators in the compromise. It has been agreed that the said amount would be handed over to respondent No.2 after the criminal proceedings initiated against the petitioners are quashed by this Court and a decree of divorce by mutual consent is granted.

Learned counsel for the petitioners has submitted that a sum of Rs.5 Lacs have been given to the aforesaid Master Mohinder Singh. Besides, it is submitted that the marriage between petitioner No.1 and respondent No.2 stands dissolved by a decree of divorce dated 31.5.2007 (Annexure-A/1) passed by the learned Additional District Judge-I, Muktsar. Therefore, it is submitted that the FIR in the case may be quashed.

Learned counsel appearing for respondent No.2 submits that the respondent No.2 has no objection to the quashing of the FIR and that the necessary amount shall be received by her. Respondent No.2 is present in Court and has been identified by her counsel. She has stated that she has no objection to the quashing of the FIR. Besides, she prays for quashing of the

FIR towards settlement of the dispute and that the quashing is not sought by way of any undue pressure or coercion. Therefore, learned counsel submits that the FIR and all consequential proceedings may be quashed.

Mr. I.P.S. Sidhu, learned Senior Deputy Advocate General, Punjab submits that keeping in view the compromise having been reached at between the parties to the matrimonial dispute, the State would have no objection to the quashing of the FIR in view of the law laid down by the Hon'ble Supreme Court in B.S. Joshi and others v. State of Haryana and another, 2003 SCC (Cr.) 848.

I have given my thoughtful consideration to the contentions of the learned counsel appearing for the parties and with their assistance perused the records. The factual position as has been recounted above is not in dispute. The matrimonial dispute between the parties has indeed been settled amicably and the parties now wish to part ways so as to lead their life afresh.

The Hon'ble Supreme Court in B.S. Joshi and others v. State of Haryana and another (supra) held that the inherent jurisdiction of this Court under Section 482 Cr.P.C. can be exercised to quash the proceedings in respect of offences relating to matrimonial disputes even though they are not compoundable. It was rather stressed that it is the duty of the Court to encourage genuine settlement of matrimonial disputes. In the present case, the matrimonial dispute having indeed been settled amicably, it would be just and expedient to terminate the criminal proceedings. This is more so for the reason that the marriage between the parties admittedly stands dissolved by a decree of divorce dated 31.5.2007 (Annexure-A/1). The

same has been passed in terms of Section 13-B of the Hindu Marriage Act, 1955 by way of a joint petition. Therefore, continuation of the impugned proceedings in pursuance of the FIR, the quashing of which is sought, would serve no purpose.

Consequently, the criminal miscellaneous petition is allowed and the impugned FIR No.38 dated 16.2.2005 (Annexure-P.1) registered at Police Station City Malout, District Muktsar for the offences under Sections 405, 406, 498-A, 420, 506 and 120-B IPC and all consequential proceedings arising therefrom shall stand quashed.

August 9, 2007.

(S.S. Saron)
Judge

hsp